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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,783	03/24/2004	James B. Kargman	P06,0191-01	4264
26574	7590	12/23/2008	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			HAIDER, FAWAAD	
ART UNIT	PAPER NUMBER			
	3627			
MAIL DATE	DELIVERY MODE			
12/23/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/807,783	KARGMAN, JAMES B.
	<b>Examiner</b>	Art Unit FAWAAD HAIDER 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 11 September 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) 18 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

***DETAILED ACTION***

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-16 in the reply filed on 9/11/2008 is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "photo-realistic" is ambiguous, and needs to be further clarified.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dragosh et al (6,078,886) in view of Suthar (2004/0143503).

Re Claims 1, 16: Dragosh discloses comprising the steps of: providing an order entry terminal for a customer to use to specify an order for a pizza, the terminal being connected to a point-of-sale system and including a display screen, voice synthesis generator, microphone, speaker, voice recognition processor capable of detecting the customer's spoken words and microprocessor controller (see col.4, lines 37-44, col.9, lines 31-60, col.3, lines 5-27, 47-51); prompting the customer to enter an order by speaking words in a human voice (see col.9, lines 31-60, col.4, lines 37-56, col.7, lines 14-31); detecting the customer's spoken words (see col.2, line 62 – col.4, line 43, col.6, lines 29-50); confirming the accuracy of the customer's order (see col.9, lines 31-60, col.6, lines 57-col.7, line 7); and entering the customer's order into the point-of-sale system (see col.4, lines 37-56).

However, Dragosh fails to disclose displaying a menu, GUI, and an image. Meanwhile, Suthar discloses a photo-realistic image of a pizza according to the order specified by the customer (see [0168]); displaying a graphical user interface to permit the customer to manually alter the order (see [0117, 0131]); and capable of displaying a menu of food items available for order (see [0004]). From the teaching of Suthar, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dragosh's invention with Suthar's use of a menu, GUI, and an image in order to have a "system with greater efficiencies for the restaurant owner and greater ease for the diner (see Suthar Abstract)."

Re Claim 2: Dragosh discloses wherein the method further includes the step of detecting the customer's initiation of the order entry process and responding by presenting a spoken greeting to a customer in synthesized human speech (see col.9, lines 31-60).

Re Claim 3: Dragosh discloses wherein the step of prompting the customer to enter an order for a pizza comprises the step prompting the user to enter their order by speaking in a narrative fashion (see col.7, lines 14-31).

Re Claim 4: Dragosh discloses wherein the step of detecting the customer's spoken words comprises the step of analyzing the customer's spoken narrative toward identifying the particular food order being placed (see col.4, lines 37-56).

Re Claim 5: Dragosh discloses wherein the step of prompting the customer to enter an order for a pizza comprises the step presenting a series of two or more individual prompts to the customer soliciting the user to enter an order by responding to individual prompts presented one at a time to the customer (see col.7, line 18).

Re Claim 6: Dragosh discloses wherein the step of detecting the customer's spoken words comprises the step of analyzing each of the customer's spoken responses provided in response to the individual prompts toward identifying the particular food order being placed (see col.7, line 18).

Re Claim 7: Dragosh discloses wherein the step of prompting the user comprises generating and presenting to the user words in a synthesized human voice (see col.7, line 18).

Re Claim 8: Dragosh discloses wherein the step of detecting the customer's spoken words further includes the step of automatically identifying the language spoken by the customer toward generating further prompts to the customer in the same language spoken by the customer (see Figure 2).

Re Claim 9: Dragosh discloses wherein the method further includes the step of providing the customer the ability to identify a preferred language to be spoken to the customer (see Figure 2).

Re Claims 10-15: Dragosh fails to disclose the following limitations. Suthar discloses wherein the step of displaying a photo-realistic image of a pizza according to the order specified by the customer comprises the step of displaying a static image of a cooked pizza (see [0168]). Suthar discloses wherein the step of displaying a photo-realistic image of a pizza according to the order specified by the customer comprises the step of displaying an animation which illustrates the preparation of the pizza by the addition of each raw ingredient called for by the customer's order (see [0168]). Suthar discloses wherein the method further includes the step of displaying to the customer a user interface which includes a menu identifying various food items available for order by the customer (see [0004]). Suthar discloses wherein the order entry terminal is located within a restaurant (see [0004]). Suthar discloses wherein the order entry terminal comprises a customer's personal computer located remote to a restaurant and which is in turn connected to the point-of-sale system via an Internet connect (see [0004]). Suthar discloses wherein the order entry terminal is provided at a drive through location operated by a restaurant whereby a customer may place an order from a motor

vehicle (see [0004]). From the teaching of Suthar, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dragosh's invention with Suthar's use of a menu, GUI, and an image in order to have a "system with greater efficiencies for the restaurant owner and greater ease for the diner (see Suthar Abstract)."

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/  
Examiner  
Art Unit 3627

FIH

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627